

LEGISLATIVE COUNCIL INTERIM COMMITTEE ON
PUBLIC TRANSPORTATION AND AIR QUALITY
November 30, 2004
House Majority Caucus Room, Statehouse, Boise, Idaho

MINUTES

(Subject to Approval of the Committee)

The meeting was called to order at 9:00 a.m. by Cochairman Representative JoAn Wood. Other committee members present were: Cochairman Senator Curt McKenzie, Senators Hal Bunderson, John Andreason, Stan Williams, John Goedde, Marti Calabretta, Elliot Werk, and Representatives Dolores Crow, Ann Rydalch, Gary Collins, Clifford Bayer, David Langhorst and Elaine Smith. Staff members present were Maureen Ingram and Charmi Arregui.

Others present included: Charles Rountree, Julie Pipal, Idaho Transportation Department (ITD); Jim Brooks, Public Transportation Advisory Council, ITD; Mark Carnopis and Kelli Fairless, Valley Ride; Roy Eiguren, Valley Ride and Amalgamated Sugar; Molly Steckel and Clair Bowman, COMPASS; Elaine Clegg, Idaho Smart Growth, City of Boise; Jess Byrne, June Ramsdell, Mike McGown, Martin Bauer and Brad Smith, Department of Environmental Quality (DEQ); Bob Flowers, City of Parma; Eric Milstead, Legislative Services; Rob Sterling and Mike Reynoldson, Micron; Byron Keely, Local Highway Technical Assistance Council; Joseph Ronquillo, Nursing Student BSU; Mike Lemke, American Association of Retired Persons (AARP); Wayne Hoffman, Idaho Statesman; and Andrea Mihm, Sullivan & Reberger.

Senator Bunderson moved that the minutes of the September 14, 2004, meeting be approved as written; Senator Calabretta seconded the motion. The motion passed unanimously on a voice vote.

Representative Wood referred to draft RSMLI291, a copy of which is available in Legislative Services Office. The draft relates to public transportation policy, amending Section 40-2102, *Idaho Code*, to expand the public transportation policy of the state and to provide for implementation of the policy. **Senator Williams** commented on paragraph (2) page 1, lines 26 and 27, “entities using state funds in conjunction with federal and local funds,” stating that in his opinion this committee does not have the authority to recommend any use of funds without approval from the Joint Finance-Appropriations Committee (JFAC), the State Tax Commission or the germane taxation committees of the legislature. **Representative Crow** confirmed that any recommendation would have to go through a germane committee and she was not totally in agreement with opening this door so wide, with little time to review. **Representative Rydalch** asked for background on draft RSMLI291 and expressed her wish for allowing regional and local entities to do most of the implementation, rather than the state. **Senator Bunderson** referred to page 2, line 11, subsection (d) where it states: “Support and assist the efforts of local governments to form both regional public transportation authorities as provided for in this chapter 21, title 40, *Idaho Code*, and public transportation programs through the use of intergovernmental agreements entered into between local units of government.” He pointed out this would prevent redundancy and duplication of efforts, would

provide coordination and would not authorize any funding since that would always have to go through JFAC. He emphasized the draft is merely a policy statement; implementation of the policy would be in total control of the legislature.

Senator Andreason added that the charge of the committee was to come up with a plan leading toward 2050; if problems of the Treasure Valley are to be addressed to the date when possibly one million people will reside here, corridors must be protected and an overall planning strategy must begin. Local capability is fractured between Ada and Canyon counties; there is not a cohesive plan for working together, so this committee needs to assist Ada and Canyon counties in their efforts to form a more capable alliance to address issues concerning plans leading to 2050. Corridors need to be protected now or opportunities will be missed and the costs later could be prohibitive. **Senator Bunderson** added that this draft RSMLI291 offers a balance between statewide coordination of planning while preserving local control.

Senator Bunderson moved that the committee recommend draft RSMLI291 to Legislative Council for approval, seconded by Senator Andreason. The motion passed unanimously on a voice vote.

Representative Wood referred to draft RSMLI292 entitled “An act relating to air quality; amending title 39, *Idaho Code*, by the addition of a new chapter 67, title 39, *Idaho Code*,” which authorizes the creation of local air quality councils. **Representative Crow** observed that new Section 39-6710, *Idaho Code*, deals with how the council would be funded, but not how the money would be raised. She asked if anyone had discussed this draft with the Department of Environmental Quality (DEQ) since many of the issues in this draft RSMLI292 may be duplicated by them. She assumed that DEQ does some of these things and to add another layer of bureaucracy may not be appropriate.

Representative Wood referred to a “Summary of Idaho’s Congestion Mitigation and Air Quality Improvement (CMAQ) Program” with a historical summary of CMAQ Funds expended by project type (FY 1992 to 2005), a copy of which is available in Legislative Services Office. This was provided by **Mr. Charles Rountree**, Idaho Transportation Department (ITD). The total expenditure for 2005 will be \$3,611,000 in CMAQ funds within ITD.

Senator Bunderson observed that the Environmental Common Sense Committee has on its agenda for December 16, 2004, the issue of emissions testing and whether the appropriate contaminants are being tested. With the improvement in engines and fuels, there is some question about that and it is on that committee’s agenda. Staff support from DEQ and the Environmental Protection Agency (EPA) will attend that meeting prepared to address which contaminants currently contribute to air quality problems. **Senator Bunderson** asked how this proposed “local air quality council” would coordinate with other existing boards, i.e. the Idaho Transportation Board, DEQ Board, and would this council be different? **Senator Calabretta** stated that DEQ does monitor air quality issues and participates cooperatively with others to deal with larger emission problems in the state. She believes there is a need for this local air quality act under DEQ with the help of ITD and thought that funding would be provided by federal moneys available. She expressed concern about air pollution affecting

the health of people living in the Treasure Valley, and other valleys in the state, as well as the economy and future development. **Senator Calabretta** explained that DEQ has funding for specific projects but this draft RSMLI292 would establish policy for planning and networking efforts if put into *Idaho Code* to make certain that there is a focus on air quality specifically.

Mr. Roy Eiguren, representing Amalgamated Sugar, offered background information on the concept of his September draft and the November draft RSMLI292, explaining that at the last meeting Mr. Pete Chertudi, Amalgamated Sugar, addressed the necessity for legislation from that company's viewpoint. Both Amalgamated Sugar and Micron Technology had presented to the committee draft legislation they thought was necessary to deal with air quality issues in the Treasure Valley. The committee, by unanimous vote on September 14, 2004, endorsed the concept of legislation such as this; it was modeled after the Big Payette Lake Water Quality Act which designed a stakeholder-based organization that developed a local plan to deal with water quality. In this case, the same approach was taken and applied to air quality. The concepts the committee discussed at the September 14, 2004, meeting became draft RSMLI292, which makes the policy applicable throughout the state, since some committee members thought it was not appropriate to have it geographic-specific, i.e., applying only to the Treasure Valley.

Mr. Eiguren discussed his draft specific to the Treasure Valley with Micron and other interested parties, as well as with the Director of DEQ, **Toni Hardesty**, and Chief of Staff, **Jon Sandoval**. Currently the DEQ Board does not get into any level of detail or depth in these types of regional or local issues. His draft is supported by Micron Technology and Amalgamated Sugar in concept, and their hope is that the committee will give consideration to conceptually endorsing this type of local-based approach where various stakeholders get together to develop a local-based plan for resolving air quality practices. As to funding, **Representative Crow** had found the funding of the Big Payette Lake Water Quality Act very advantageous since there was no request for state appropriations. **Mr. Eiguren** drafted another proposal without any appropriated funds being requested; it would be funded by federal moneys and contributions in the form of grants by parties wanting to participate, such as Amalgamated Sugar.

Representative Wood inquired as to what the cost estimate might be for DEQ to put this program into place. **Mr. Eiguren** responded that they had not discussed what the cost would be. **Representative Wood** pointed out the expense for water quality had been horrendous, emphasizing that the committee should know what the cost might be if they are backing this policy. **Mr. Eiguren** added that the Big Payette Water Quality Act operated without state appropriated funds, getting local moneys donated as federal grants and that model is being used for this draft. **Mr. Martin Bauer**, Administrator of the Air Quality Division, DEQ, stated that DEQ has not discussed cost and that they had reviewed the draft only briefly. DEQ has not gotten into details regarding implementation or how it would work, and could not identify any potential problems at this time.

Senator John Goedde asked how local health districts are currently involved in air quality (if they are involved) and how that is coordinated with DEQ. **Mr. Mike McGown**, Regional Administrator, DEQ, responded that the health districts have little involvement with air quality unless air quality

problems have exceeded the standards; then they help broadcast that information.

Representative Rydall referenced Section 39-6709, *Idaho Code*, on page 3 of draft RSMLI292, lines 44-47: “In circumstances where any state or local government agency chooses not to incorporate and implement any element of the plan, any such agency shall provide to the council the reasons why such incorporation and implementation has not been adopted.” Her question was, if an agency does not comply, will any penalty be assessed and the response was that DEQ has not discussed the implementation details.

Senator Williams asked **Mr. McGown** if he saw any duplication of effort as to what DEQ is doing currently and what draft RSMLI292 would do? The answer was that he didn’t think efforts would be duplicated since he views this draft as an opportunity for overseeing, even though some ideas and resources may be redirected. **Senator Calabretta** commented that she sees draft RSMLI292 as bringing coordination that is not now occurring. She asked what the present budget for DEQ was, the range of activities being monitored primarily in response to a federal law and whether the state presently has authority or if EPA has authority over air quality? She also asked how DEQ and ITD presently coordinate so they do not work at cross purposes. **Mr. McGown** answered that DEQ has very specific authorities under the Clean Air Act, mostly with regard to permitting industrial facilities and in reaction to known air quality violations that trigger responses. A pro-active approach is taken to avoid future air quality issues and non-attainment status because it is a benefit to health in the community and saves time and money; DEQ talks to communities about these matters. The benefit that **Mr. McGown** saw in draft RSMLI292 is that DEQ could become pro-active. They currently only react to a situation after it has occurred. Legislation could be a vehicle to allow for that pro-active approach, moving from education into implementing plans that will work in the local communities. He did not have information with regard to the DEQ budget, but confirmed that the Big Payette Water Quality Council was funded by contributions at very little cost with great improvements.

Senator Calabretta followed up on a question she had asked, “In what way does DEQ presently coordinate with the ITD and their construction funds versus the \$2,500,000 the state puts into air quality and compliance?” **Mr. McGown** answered that DEQ and ITD have a very high level of coordination on that activity. Over the years, they have developed a very successful process that puts forth proposals to ITD related to air quality; they evaluate those proposals and are potentially, hopefully approved by the Board.

Representative Wood inquired about construction projects creating dust problems which reduce air quality; she had heard that DEQ monitors the amount of dust created by construction and asked if DEQ has a limit on amounts that are tolerated? **Mr. McGown** explained that when DEQ becomes aware of an excessive dust problem, they call ITD; they work together to solve any problems. When ITD uses a sweeper or flusher on highways or on transit and bus transportation, this could create a dust problem in the Treasure Valley, and much time and money has been spent on control measures. After snow storms, there is a plan to sweep so that dust does not reenter the atmosphere once the road is dry; DEQ works with ITD to fund sweepers. The local highway district has a plan for

sweepers that results in cleaner air. Regarding transit, DEQ works with ITD as well as commerce and local planning organizations.

Senator Bunderson asked **Mr. McGown** if the council created by draft RSMLI292 would be responsible for evaluating air quality issues in particular areas? Would they try to balance the various contributors of pollutants if concerns were brought to DEQ based upon findings that would be fair to all, as opposed to pinpointing one entity as a major source of emissions contributing to poor air quality over another? Would this proposed council function as an information and recommendation source to DEQ? **Mr. McGown** pointed out that Amalgamated Sugar would be an example of one industry that contributes only a small percentage of total emissions in the Treasure Valley and that transportation is by far the biggest emission source; however, DEQ also needs to look at localized impacts in areas where a violation could occur to an air quality standard. The bigger picture regionally shows that industry is very highly regulated. Transportation is the major contributor to emission problems, which is not directly regulated, and this council could provide a gathering place for information and implementation on a local level. The total pictures needs to be evaluated and this council would be a place to start.

Representative Langhorst asked **Mr. Rob Sterling**, Corporate Environment Safety Manager, Micron Technology, to address non-attainment, what it is and what it would mean for the Treasure Valley, for Micron, and economic development in general. **Mr. Sterling** said that non-attainment is a federal designation for an area that does not meet federal air quality standards for certain pollutants. That federal mandate removes local control decisions from how local entities might want to respond to potential air quality issues and shifts it to the federal government. The federal government requires that certain steps be taken and a response is required. In the Treasure Valley, those standards currently are being met; however, in the future there is potential for violations of new federal standards for other pollutants. ITD deals with air quality, as well as the city of Boise and Ada County who are studying different comprehensive plans along with DEQ, COMPASS, an interagency consultation committee, and many groups who look at different facets of air quality. This proposed council would be a place for all those local groups to come together to discuss potential pro-active ideas to make decisions that could change and improve air quality before the federal government steps in to mandate that certain steps be taken. Micron believes this council is an opportunity for local groups to make local decisions which impact the local economy. DEQ has certain restrictions concerning what they are able to do pro-actively; DEQ is largely a reactive organization which responds to federal government designations. There are limitations on what DEQ is authorized to do pro-actively; this council would provide some authority for pro-active planning and decision-making.

Senator Andreason questioned **Mr. McGown** with regard to automobile emissions being the main contributing factor for air quality problems throughout the Treasure Valley. In his opinion, all automobiles should be tested. He asked if automobiles and gasoline have improved to the point where many automobiles are not contributing to an emission problem. He asked how that issue might affect possible legislation that would require all the vehicles to be tested in the Treasure Valley in Ada and Canyon counties. **Mr. McGown** answered it is true that cleaner fuels and technology allow

vehicles to become cleaner year by year; there is a balance in terms of growth and the number of vehicles versus the cleaner exhaust out of each individual vehicle. Research shows that cleaner technology will result in lower levels of certain pollutants in the future. The current vehicle inspection maintenance program in Ada County is a 20-25-year-old program that was designed to monitor carbon monoxide when it was a problem, but it is no longer a problem. **Mr. McGown** believes that Idaho's current vehicle inspection maintenance program is a viable control strategy but needs to be looked at; there are states with improved programs utilizing newer technologies. Idaho's vehicle inspection program should be evaluated and possibly updated. **Senator Andreason** concluded that the current strategy Idaho uses is old-fashioned and does not address the real issue; he asked how long it would take to provide a proper plan to test emissions properly. **Mr. McGown** responded that the current emissions testing program is old-fashioned but does have benefit since it continues to measure carbon monoxide and also looks at hydrocarbons which are a component of our PM10 problem. With regard to how long it would take, it could be evaluated relatively quickly because there are other types of inspection programs and other ways of monitoring are used throughout the nation; a literature search could be done, especially if DEQ has mandates to address that issue. **Senator Andreason** asked if a new program was being worked on at this time; if not, why not? The response was no, not at this time, because this is a pro-active activity and DEQ does not have direction to do that. The need for that has been discussed, but no direction has been given; ITD and others perhaps should be contacted to look at this issue. **Senator Andreason** asked if DEQ were looking for further direction from the legislature with regard to this issue, and is it needed? **Mr. McGown** answered that would certainly be one option, and he believes that it is needed since Idaho has a very old program and a number of air quality challenges, suggesting the legislature look at this issue very closely.

Representative Rydalch asked **Mr. Eiguren** four questions regarding draft RSMLI292:

- (1) Section 39-6707(2), *Idaho Code*, on page 3: "The council may adopt its own operating rules and procedures, which shall be made available to the public." She asked if the rules and procedures would go through legislative review.
- (2) In Section 39-6709, *Idaho Code*, page 3, "... agencies shall incorporate and implement the plan..." and states that any agency choosing not to participate shall provide reasons why implementation has not been adopted. She asked for assurance that there is not going to be a hammer given to state and local governments if they decide there is no need to participate.
- (3) Line 26 on page 3 states that "A council shall not have any regulatory or enforcement powers." She asked for an explanation of this.
- (4) In Section 39-6705, *Idaho Code*, which describes membership of a council, is it not possible with the air quality research and development being done that there might be scientific expertise as part of the council membership to make sure that all avenues are being contemplated using the latest technology to implement correct procedures?

Mr. Eiguren answered: (1) "no" in regard to the council's operating rules and procedures being subject to legislative approval; they would be designed simply to deal with procedural aspects of the council.

- (2) and (3) The substantive work of the council, which is the plan, is dealt with in another

section of the draft, already referenced on page 3 lines 46 and 47 of draft RSMLI292. The concept is that to the greatest extent practicable, state and local agencies are to incorporate and implement the plan as recommended; however, if an agency decides it is not practicable to implement, they would be asked to submit that response in writing to the council. This draft would provide a mechanism for various parties to sit down and work out a community consensus-based plan to deal with air quality as opposed to having it regulated by a governmental entity.

(4) As it relates to the membership in Section 39-6705, *Idaho Code*, on page 2, **Mr. Eiguren** prepared another draft entitled "Discussion Draft 11/29/04" a copy of which is available in Legislative Services Office. He included others members besides the membership in draft RSMLI292, such as people active in the environmental community. Again, the committee's endorsement of a concept is being sought to determine if all the interested parties can be brought together to draft legislation for this next session.

Representative Wood noted that there is no reference to transportation at all. **Mr. Eiguren** responded that the drafts were not designed to be a transportation-related issue as much as an air quality issue, which is the second part of this committee's charge. There is language in the draft that requires that all agencies of state government could be called upon for assistance in terms of developing implementation of their potential plans. ITD would be called upon to assist in that.

Senator Calabretta commented that there are many different boards in the state comprised of subcommittees and working groups and cited the State Board of Education and the Department of Health and Welfare as examples of agencies who would not actually get involved in policy of other departments. It may be the will of this committee to say these are the types of responsibilities we expect boards in various departments to take on, but at the same time legislators are aware of the drawbacks of doing that. That is one of the issues. DEQ is saying they do not have clear direction to implement, even though useful. DEQ needs to be pro-active, and they are requesting some direction from the legislature in order to become pro-active. The process of governing is what **Senator Calabretta** thinks is being challenged; turf issues need to be overcome to understand where regulatory authority stops. What the drafts are requesting is a pro-active air quality approach that starts with the committee; somehow this has to get done.

Representative Crow asked **Mr. Eiguren** about how his Discussion Draft was drafted and if it were modeled closely after the Big Payette Lake Water Quality Act. She referred specifically to Section 39-6710, *Idaho Code*, on page 4. **Mr. Eiguren** answered in the affirmative that this draft incorporated the comments he received from the committee and **Representative Crow's** specific comment about not appropriating funds for this effort. He took out the reference to appropriations in Section 39-6710, *Idaho Code*. In addition, he put more effort into making it very clear that this regional council would provide a forum for discussion with all representatives of industry in the community in order for them to participate pro-actively to improve air quality.

Representative Crow asked if the council members would serve without compensation or if they would be paid and the response was that they would not be compensated.

Representative Wood referred to **Mr. Eiguren's** Discussion Draft, page 3, Section 39-6709, *Idaho Code*, asking what the result might be if agencies chose not to incorporate and implement the plan, since it appears to put a mandate on local government agencies to participate, and what the reason was for requiring a written response if an agency chose not to participate? **Mr. Eiguren** answered that if a local unit of government or a state agency chooses not to adopt some element of the plan, they need to articulate in writing their reasons to create a public record explaining why there will be no action taken. This is very similar to legislation adopted by the Congress in 1979 in which the Power Planning Council was created as a feature of state government. Constitutionally it doesn't have the authority to direct the federal government, but its plan is similar in that federal agencies are to follow the Council's plan; if they don't, they simply articulate their reasons in writing why they don't do so.

Representative Wood asked **Mr. Rountree** if requiring local governments to participate (or submit a written reason why they won't participate) would affect the CMAQ funds they might be utilizing in a local area? In other words, if they choose not to go along with what this draft legislation dictates, would they no longer be able to qualify for any of the congestion mitigation funds? **Mr. Rountree's** response was that according to the current CMAQ funding process, ITD makes money available to the state of Idaho for those projects with an air quality benefit to the state. ITD established a subcommittee of the board comprised of representatives across the state, including DEQ, to annually evaluate projects submitted for consideration. The committee then makes recommendations to ITD of projects to be included in the three-year statewide transportation improvement program. Under this particular scenario, ITD is looking at **Mr. Eiguren's** Discussion Draft for the first time. The ITD subcommittee's work is a very cooperative process including environmental groups and agencies, counties, cities and anyone interested in air quality. **Mr. Rountree** thought it would be unlikely that **Mr. Eiguren's** plan would affect CMAQ projects.

Representative Wood commented that Clark County currently has no air quality problems. She asked if Clark County were to engage in a construction project and decline to do as suggested in the draft legislation, writing to state that they saw no need to participate, then if dust became a problem on a specific project, would they not qualify for help through CMAQ funding? **Mr. Rountree** answered that ITD would handle this through another method. Regular construction funds have required specifications; if the contractor does not abate dust, then ITD would be notified through their inspection process. DEQ might receive a complaint, but since ITD works very closely with their regional offices, that complaint would go to the district engineer and they would work with the contractor to resolve the problem.

Senator Elliot Werk commented that the drafts would allow for the creation of local councils and it seemed to him that if there were an air quality issue and communities felt there was a need, then they have the option of establishing one of these councils. At the September 14, 2004, meeting the committee discussed looking for private and public partnerships to deal with air shed issues. The problem lies with Ada County doing one thing and Canyon County doing another. There is no means to foster cooperation to develop solutions to air quality problems, and **Senator Werk** sees the drafts as quite critical. He was confused about the direction of the committee since there were three drafts

presented. **Representative Wood** explained that today's draft (the second of three drafts) was created at the request of the committee in response to a committee motion passed at the September 14, 2004, meeting to take the concept and expand it so that any region in the state could create a council. Legislative Services used **Mr. Eiguren's** draft (the first draft) and expanded it making it possible to create local air quality councils as needed and removing creation of the Treasure Valley council. The third draft, **Mr. Eiguren's** dated 11-29-04, is similar to his first draft in that it only creates a Treasure Valley council.

Senator Bunderson asked **Mr. Eiguren** why his Discussion Draft was specific to the Treasure Valley since his testimony supported a concept that authorizes all the stakeholders to participate in the draft legislation. One includes the Treasure Valley, another a statewide plan. **Mr. Eiguren** responded that the goal is the same on all drafts; he recommended that the concept for regional air quality councils be adopted by the committee, but since there is a critical need that has to be addressed in the Treasure Valley, definitive action should also be taken to create a council in the Treasure Valley. The draft RSMLI292 would allow these councils to become active whenever the governor decided to appoint them. If the committee endorses the concept of regional air quality councils, staff could work with appropriate departmental staff to create the best legislation.

Senator Williams asked **Mr. Eiguren** for clarification on draft RSMLI292, lines 21-24 on page 3, with regard "To assist ... agencies in the establishment of a multi-agency oversight capability to succeed the council prior to the automatic dissolution of the council...seven years after the plan is adopted by the legislature." **Mr. Eiguren** responded that the language could perhaps be tailored to make it more explicit, but the concept is exactly how the Big Payette Lake Water Quality Council was structured, to sunset at the end of its seven-year life. **Mr. Eiguren** explained that the concept is borrowed and that there is direction in the statute that all the agencies who participate in putting together this plan would, on a multi-agency basis, continue to try to implement oversight capability to succeed the council after the council has been dissolved.

Representative Crow moved that the committee instruct Legislative Services to develop legislation based on the Discussion Draft 11/29/04 from **Mr. Eiguren** but to expand it to include the concept for the entire state and not restrict it to just the Treasure Valley. The motion was seconded by **Senator Rydalch**.

In the discussion that followed the motion, **Representative Williams** expressed concern about duplication of effort and creating another level of bureaucracy. Is this committee action necessary and if steps aren't taken now, then when?

Senator Bunderson asked how regional councils are to be established and if it requires the initiative of the governor. There could be many local entities involved; would each petition the governor? **Mr. Eiguren** stated that the interested areas would approach the governor and ask that he appoint a council for a specific geographic area.

A roll call vote was taken on **Representative Crow's** motion. The motion passed 11-3, with

Senator Williams, Representative Wood and Representative Collins recorded as voting “no.”

A discussion on ethanol use in the state began with the distribution of three recent newspaper articles from the *Idaho Statesman*, all of which are available from Legislative Services Office:

1. “Valley begins experiment with ethanol for cars”
2. “Proposal would require 10% ethanol in Idaho gas”
3. “INEEL charts a path to cheaper hydrogen fuel”

Representative Wood referred to a letter sent by the Idaho Farm Bureau Federation dated November 29, 2004, requesting that the committee’s final report include acknowledgment of the committee’s unanimous approval in September endorsing the Farm Bureau’s proposal to utilize a 10% blend of ethanol in all gasoline sold for use in motor vehicles statewide and that such acknowledgment or any committee proposal based on it, be forwarded to the germane committees in both the House and the Senate for consideration. A copy of the letter is available in Legislative Services Office.

Senator Williams moved that the committee endorse, in concept, utilization of 10% blended ethanol gasoline for use in automobiles statewide, and development and use of alternative fuels within the state. The motion was seconded by Senator Andreason.

Senator Goedde commented that he didn’t think he could support the motion without knowing how an alternative fuel would be produced or made available in northern Idaho. **Senator Andreason** stated that one of the objectives would be for Idaho to produce alternative fuels within the state using in-state products. **Representative Wood** added that there is movement to begin construction of plants that will produce ethanol in several different locations in the state. **Senator Bunderson** commented that ethanol can be produced from several different sources, and wherever there is opportunity for profit, it is highly likely the private sector will find a way to produce fuel. There are virtually no regional limitations. **Representative Rydalch** thinks that research and development will come, using even wheat stock, which is plentiful in northern Idaho. She commented that whatever we can do to be less dependent on foreign fuel is very important. Hydrogen, nuclear, or alternative renewable energies may provide a combination of fuels that will allow us to be more self-sufficient and not have to rely on foreign oil.

Senator Williams informed the committee that he, **Representative Collins** and others traveled to Minnesota to study the Minnesota ethanol program. The Twin Cities had been in violation of the Clean Air Act due to emissions problems, but after implementing a program requiring use of 10% ethanol blend in gasoline, they are now in compliance despite the fact that one million more cars are now on their roads. The 10% ethanol blend is certainly contributing to that reduction in air pollution. Minnesota is planning to introduce legislation this year mandating use of a 20% ethanol blend. **Senator Andreason** reiterated that Minnesota was excited about the products they can use to produce ethanol, but even more excited about using by-products, which in their case is corn stock. Idaho could use wheat straw which is readily available in northern Idaho.

Senator Calabretta asked if there would be an incentive to retailers who would be required to make

considerable changes to their facilities. **Senator Williams** answered that Minnesota was able to sell ethanol twenty cents cheaper at the pump than gasoline. Fuel costs would be less, so a retailer would not get any incentive since the distributors did the blending and the actual gas stations would not need to make any changes. They toured a plant in Minnesota located in a very remote location, and the local people said the plant changed the entire economy in that area in addition to the jobs provided and profits gained in the agricultural economy.

Representative Langhorst mentioned that tax incentives were given on the supply side for the creation of ethanol plants in Minnesota. He asked if the motion on the floor addressed that. **Representative Wood** pointed out the motion was generic in the form of a recommendation to Legislative Council that legislation come forth, adding that tax incentives could possibly be a component. It was confirmed that Minnesota's success was partially due to the limited tax credit offered. **Representative Rydalch** commented that Idaho labs are currently doing research on the wheat straw which would be cheaper than corn, and an affordable solution is imminent. There is current technology in place to start the production of ethanol in Idaho, and the costs are being explored to make it economically feasible. The Idaho Wheat Commission is involved as well as a Canadian company who met with legislators last year.

Senator Werk asked if Idaho has the agricultural products to economically produce the ethanol required for this program? **Representative Wood** answered that Idaho has the products, but where the plants will be built is being explored as well as how much it would cost to produce ethanol at a reasonable and affordable price. **Senator Calabretta** expressed that she is more comfortable including a tax credit or some production incentive, rather than the wording in the Farm Bureau letter. She stated that corn is a crop requiring more irrigation in Idaho than perhaps in Minnesota, so hopes that Idaho can focus quickly on using wheat straw which may be more economical. **Senator Williams** mentioned that straw stubble can be used for production of ethanol as well as corn stalks.

Senator Williams' motion passed on a voice vote. (See page 10 for the motion.)

The committee reviewed draft RSMLI290, a concurrent resolution stating findings of the legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study of Idaho's transportation infrastructure needs through the year 2050. A copy of RSMLI290 is available in Legislative Services Office.

Senator Bunderson stated that trends show in just a few decades Idaho will look very different from what it does today. Dramatic growth has occurred in the past decade which has put enormous strain on the transportation infrastructure in some areas. Draft RSMLI290 acknowledges that those changes are occurring and encourages the legislature to evaluate what is occurring, as well as consequences, and determine whether the current planning systems are adequate to address Idaho's future proactively rather than reactively. ITD is moving forward on certain issues; a task force group has been formed and discussions have begun with ITD. The content of draft RSMLI290 does not overlap their work in any significant way but would complement their efforts. Idaho needs to look at the

population explosion and whether Idaho's transportation infrastructure and resources can meet future needs. Draft RSMLI290 references what is occurring at the federal level because federal fuel taxes would be impacted. Idaho cannot afford to be reactive; the state must keep abreast of growth and be pro-active. The committee's recommendation should be sent to Legislative Council for its consideration.

Representative Wood distributed a document from ITD entitled "Agency Summary and Certification" showing certain ITD expenditures by major program, fund source, and standard class, a copy of which is available in Legislative Services Office. With regard to the document, **Representative Wood** asked **Mr. Rountree** what is incorporated in ITD's planning and how this money is spent. **Mr. Rountree** answered that the dollars represented in the Agency Summary and Certification are federal funds primarily with 20% state match but are dedicated for funding purposes only. They cannot be spent for any other activity.

In answer to what the state does with their appropriation, he replied that there is an organization and planning division that collects traffic data. There are about 186 automated traffic counters around the state of Idaho that collect traffic information and classify, in a number of those areas, the kind of traffic being counted. Several of those sites have components that can identify speed and weight of vehicles so ITD can get a sense of how fast people are going in certain areas. That is about a quarter of the planning operation and consists of field staff around the state. Headquarters' staff gathers the information and turns the electronic data into information that is distributed to a number of agencies on an annual basis. ITD uses that data in-house primarily with regard to project design considerations such as knowing how many lanes and how much pavement to incorporate into a plan. ITD also provides that information to developers and property owners.

ITD does intermodal planning working with locals and within ITD on pedestrian and bicycle planning, rail, and rail abandonments. They determine how to assist in capital improvements, with freight movements, assist metropolitan planning organizations in their mission of planning with COMPASS, addressing points such as the concerns in the Treasure Valley and are working cooperatively with them in a region-wide transportation plan which includes Canyon, Gem, Elmore and Payette counties. ITD also does research and development in data collection and analysis for the primary mission where these federal funds are to be spent which is in data collection. This data is used to report to the federal government a wide variety of information about transportation in the state, everything from traffic volumes to pavement conditions.

In the process of collecting this information, ITD has to analyze it and put it in report format to be submitted to the federal government. There is a book containing all these statistics which ITD is mandated to provide annually to the federal government. ITD has been recognized a number of times by the federal government for being very prompt but, more importantly, is very quality oriented. They provide for the highway performance and management system which is a federal system that tracks data and is the basis from which ITD receives federal gas tax revenues based on volume of travel within the state. ITD's development of the technology within the department includes mapping, geographic information systems utilizing mapping and location referencing, in order to

analyze such things as traffic volumes with geometrics in multiple layers with other data to determine problem areas. **Mr. Rountree** volunteered to bring specific budget information to the committee as requested.

Representative Wood asked about ITD's five-year and twenty-year plan and asked about the process of moving into a succeeding five-year plan. **Mr. Rountree** answered that the five-year Statewide Transportation Improvement Program (STIP) is a documented process mandated by the federal government. ITD follows a plan for five years and has a sixth year of projects that are under plan, but are looked at for ultimately being moved into the first three years of the next five-year plan and from there into construction. ITD recently completed a process to determine what their customers want in terms of transportation, not just from a state highway system, but transportation in general; what are the expectations? Information was made available to everyone and input was incorporated, typically by a memorandum of understanding or a quadrant agreement based on presentation of an issue to the Transportation Board.

Representative Rydalch asked when a constituent reports a problem in a plan, how is that dealt with? If someone objects to something in a planning stage, is it carried through in a construction stage and made known? **Mr. Rountree** answered that typically the planning division is not project-specific. If a problem were identified, there would be a public process to address concerns.

Senator McKenzie asked about the implementation of long-term planning, beyond five years, questioning if a legislative committee is the best entity to monitor an on-going project. He wondered if ITD should house this plan which should be long-term as well as ongoing. With growth, any current solution quickly becomes outdated and needs to be constantly updated; perhaps ITD should be doing that. ITD responds to federal mandates, but if longer term, on-going planning is necessary, then that needs to be addressed taking into consideration the growing population. Use of alternative fuel vehicles needs to be considered and how roads will be maintained. Preserving corridors for perhaps a fifty-year time frame is also critical. Idaho needs long-term planning for its infrastructure.

Senator Goedde suggested that ITD has been reactive instead of pro-active primarily because of limited funds; he thinks they have missed the boat on right-of-way acquisition and corridor preservation when they could have bought at reasonable costs if the money had been available. When a route is identified, landowners anticipate future activity and inflate the value of property, so **Senator Goedde** suggested that a "Whereas" be included in the resolution to provide for right-of-way acquisition and preservation of corridors for the future.

Mr. Rountree informed the committee that ITD has discussed for years the issue of advanced right-of-way acquisition and corridor preservation. The problem reoccurs when ITD identifies an alternative, but when a location for another possible corridor is revealed, the cost of acquisition again becomes prohibitive. ITD is also constrained because a big share of ITD's major improvement projects are funded with federal dollars. With that money come federal restraints, preventing ITD from acquiring rights-of-way until required location and environmental studies have been done. ITD fully identifies and works with the public on where the alternative solution is, and then ITD can

possibly acquire a right-of-way.

ITD has been working specifically at length with Idaho's congressional delegation over the past two years to get provisions in the next federal transportation bill (which ITD does not have yet) to include provisions to allow the use of federal funds for corridor preservation and right-of-way acquisition without having to go through the environmental studies process to the level and detail that ITD currently does. If a community comes to ITD with money to build a bypass and they want to identify that bypass in a comprehensive plan, there is a concern about the "taking" aspect. ITD is working to get statutory changes at the federal level to allow ITD more flexibility. They have investigated the possibility of identifying a special dedicated fund for advanced right-of-way acquisition. ITD has projects in its STIP that are advanced right-of-way acquisition type projects utilizing state funds. ITD tries hard to find the balance between using current funds for needed projects, and saving for advance acquisitions.

Senator Goedde asked if ITD ever uses purchase options. **Mr. Rountree** answered that purchase options have been used in a very limited way in the past, but expanded use of this has been discussed. When several possible routes for a corridor have been narrowed down, some type of purchase option could be done. Landowners might be very interested in this if they knew they had only one chance out of three to sell their property. This might be an effective use of dollars, if it did not conflict with federal regulations or mandates.

Senator Andreason commented that the state does not do long-term planning in terms of public transportation; he predicted that Idaho could have traffic problems such as those in Las Vegas which occurred because they did not plan for growth. If Idaho doesn't establish a corridor for public transportation in the Treasure Valley in the very near future to cover its needs well into the next thirty years, a real problem will be the result. Corridors are currently available that will not be available five years from now. Why hasn't Ada County Highway District already done this? While there is not currently a long-range plan; they are working on it. There needs to be a plan that includes Canyon county as a partner, or no plan will work. Public transportation has to be accommodated in the Treasure Valley soon or those corridors may not be available in the near future and then the problem begins to compound.

Senator Bunderson moved to accept draft RSMLI290 entitled "A concurrent resolution stating findings of the legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study of Idaho's transportation infrastructure needs through the year 2050" and to include an additional "Whereas" as requested by Senator Goedde indicating the need for corridor preservation and advance right-of-way acquisition, and to include a technical clarification on funding language. Representative Crow seconded the motion. The motion passed unanimously on a voice vote.

The meeting was adjourned at 11:48 a.m.